

# OFFICE OF THE ATTORNEY GENERAL

91-00289



JIMMY EVANS  
ATTORNEY GENERAL  
STATE OF ALABAMA

MAY 30 1991

ALABAMA STATE HOUSE  
11 SOUTH UNION STREET  
MONTGOMERY, ALABAMA 36130  
AREA (205) 242-7300

Honorable Charles J. Ray, Jr.  
Superintendent of Education  
St. Clair County Board of Education  
P. O. Box 248  
Ashville, AL 35953

Boards of Education -  
Employees, Employers,  
Employment - Sick Leave

The boards of control of city and county school systems may adopt personnel policies regulating the recognition and transfer of previously accumulated sick leave by new employees. The board's policies would determine whether a new employee may transfer previously accumulated sick leave to his new position.

Dear Mr. Ray:

This opinion is issued in response to your request for an opinion from the Attorney General.

## QUESTION

Can an employee transfer sick leave accumulated while he worked for the St. Clair County Commission to his new position as an employee of the St. Clair County Board of Education?

FACTS AND ANALYSIS

The St. Clair County Board of Education recently hired a gentleman (who is a noncertified employee) who had previously been employed by the St. Clair County Commission in the Road Department. As a county employee, the gentleman had accumulated sick leave. The question presented here is whether under these circumstances the Board of Education should recognize the employee's previously acquired sick leave.

Code of Alabama 1975, Section 16-1-18, authorizes sick leave for county board of education employees:

"(a) The boards of control of city and county school systems and the Alabama Institute for Deaf and Blind shall provide for the payment of school bus drivers and all full-time support personnel who are non-certified educational employees for absences resulting from sickness, accidents or some other unavoidable cause which prevents such employee from discharging his/her duties; provided, that any employee not utilizing or being paid for the sick leave in any one year may accumulate days at the rate of one day per month for the months employed and carry over the unutilized days to the next consecutive year or years of employment for the same school system or institution or for any other school system or institution in which the employee may later be employed until he/she shall accumulate a maximum of 150 days. The reasons for granting sick leave shall be the same as those for teachers. . . ."

As there are no statutory prohibitions or state board of education policies formulated to regulate the county transfer of such leave, a county board of education may adopt whatever policies it determines would be best for education in that county. Concurrent with its authority to authorize sick leave, the county board may allow a transfer of sick leave "as part of the initial contract of employment" as was authorized by the Attorney General in our opinion to Honorable Sid Holcomb, President, DeKalb County Commission, May 20, 1988, AG No. 88-296. However, the sick leave policy initiated and adopted

Honorable Charles J. Ray, Jr.  
Page 3

by the board should apply equally to all employees, as we noted in our opinion to Honorable Gary C. Sherrer, September 25, 1989, AG No. 89-429. The Attorney General suggests here, as he did in that opinion, that the county board of education adopt definitive guidelines for determining the eligibility of new employees to transfer their previously accumulated sick leave to their new positions with the county board of education. (See also our opinion to Honorable John Ed Roberts, Chairman, County Commission, March 8, 1991, AG No. 91-183.)

CONCLUSION

The county board of education has the authority to adopt personnel rules and regulations governing the recognition or transfer of a new employee's previously accumulated sick leave. Those policies would determine whether a new employee can transfer sick leave accumulated as a county employee into the board of education's records. The new employee may transfer sick leave in accordance with departmental policy and regulations if he satisfies the established guidelines therefore.

I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

JIMMY EVANS  
Attorney General

By:



JAMES R. SOLOMON, JR.  
Chief, Opinions Division

JE/JLB/jho

07090